

Fiscal Note

Fiscal Services Division



SF 2332 – Enhanced 911 Emergency Communications (LSB 6024SZ.1)
Analyst: Jennifer Acton (Phone: 515-281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version – As amended by the House

Description

Senate File 2332, as amended by the House, relates to the enhanced 911 emergency communication systems, including surcharges and the allocation of moneys collected from such surcharges and replacing the existing surcharge on prepaid wireless service with a new surcharge collected at the point of retail sale. The provisions of the Bill establishing the prepaid wireless E911 surcharge take effect January 1, 2013, and apply to retail sales of prepaid wireless telecommunications service occurring on or after that date. The Bill also requires Homeland Security and Emergency Management Division in the Department of Public Defense to convene a task force of stakeholders to consider and offer recommendations regarding needed upgrades and enhancements to the State's E911 programs. The task force report containing recommendations to the General Assembly is due December 1, 2012. The House amendment places a temporary moratorium on any new surcharges over \$1.00 until the task force recommendations have been submitted or approximately until May 1, 2013. The amendment also broadens the language related to the funding for the Public Safety Answering Points (PSAPs) permitting it to be used on other things besides just the equipment within the PSAPs.

Background

For additional background on enhanced 911 communications for both wireline E911 funding and wireless E911 funding please see the Legislative Services Agency Fiscal Topic at: https://www.legis.iowa.gov/DOCS/LSA/Fiscal_Topics/2011/FTJDA001.PDF.

Wireless

Under current law, 21.0% of the total amount of surcharge generated per calendar quarter is allocated to wireless carriers to recover their costs to deliver E911 Phase 1 services (call-back number and tower location of the call). In the late 1990s, the Federal Communications Commission (FCC) stated there was no need for a government-mandated carrier cost recovery mechanism, noting that carriers are free to recover these costs in their charges to customers, either through their service rates or through specific surcharges on customer bills. Nevertheless, the FCC emphasized that states are free to have a carrier cost recovery mechanism in place if they so choose.

Under current law, 25.0% of the total amount of the surcharge generated per calendar quarter is allocated to the PSAP. There are currently 117 PSAPS in Iowa. The distribution of funds is based on a formula: 65.0% of the total is based on the square mileage of the local 911 service area and 35.0% of the total is based on the volume of the wireless E911 calls that the PSAPs receive with a minimum of \$1,000 per PSAP, per calendar quarter.

Under current law, the Iowa Code and Administrative Rules address prepaid wireless telecommunications service. Iowa Code section [34A.7A\(1\)\(c\)\(1\)](#) states that in the case of prepaid wireless telephone service, the surcharge will be remitted based on the address

associated with the point of purchase, the customer billing address, or the location associated with the mobile device for each active prepaid wireless telephone that has a sufficient positive balance. Administrative Rule 10.8(5)(a) states that wireless service providers will collect, on a monthly basis, the surcharge from each active prepaid customer whose account balance is equal to or greater than the surcharge. The current surcharge is \$0.65 per month. A partial payment is applied to the amount owed the wireless carrier first and the remainder is applied to the surcharge. The wireless carrier is entitled to retain 1.0% of any wireless surcharge collected for administration purposes. The wireless E911 surcharge is not subject to sales or use tax.

According to the FCC Fifteenth Report (FCC 11-103), until recently in the United States, most mobile wireless subscribers paid their phone bills after they incurred charges (postpaid service), requiring service providers to extend credit to their customers. Prepaid service requires customers to pay for service prior to making calls and does not require a credit check. Phones and prepaid calling cards are sold at Best Buy, Wal-Mart, Target, and Radio Shack in addition to drug stores and other local retail outlets. According to the Report, the majority of wireless subscribers in the United States are postpaid with 19.0% being prepaid; however, the prepaid and wholesale segments continued to grow at a faster pace in 2009 than postpaid.

Wireline

To implement service, the joint E911 service board must fund the recurring and nonrecurring costs of the system with an E911 surcharge on each telephone access line within the E911 service area. To impose the surcharge, a referendum must be passed by a simple majority of the voters within the service area. The amount of the surcharge to be placed on the referendum is determined by a statutory formula and can vary from \$0.25 to \$2.50 per month, per telephone access line (Iowa Code section [34A.6A](#)). The \$2.50 can only be in place for 24 months and then the surcharge reverts to the original surcharge collected. All increases beyond \$1.00 require a voter referendum for each 24-month period. Each telephone service provider remits collected surcharge funds directly to the respective joint E911 service board on a calendar quarterly basis.

As of April 8, 2011, the surcharge was being collected by the service boards at the following rates:

- Surcharge = \$1.00 in 81 counties
- Surcharge < \$1.00 in 15 counties
- Surcharge > \$1.00 in 2 counties
- Surcharge = \$0.00 in 1 county

The Scott County surcharge is \$0.00. Since 2004, five counties have exceeded the \$1.00 surcharge amount. From 2004 to 2006, Decatur County was at \$2.50 and is currently at \$1.00. From 2004 to present, the Washington County surcharge has been \$1.50. From 2006 through 2009, Mitchell County's surcharge was \$2.50 and is currently \$1.00. From 2008 to 2010, Emmet was at \$2.00 and is currently at \$1.00. Beginning in FY 2010, Shelby County's surcharge was \$2.50.

Money from the wireline surcharge is used for recurring and nonrecurring costs to the system. Nonrecurring costs include, but are not limited to, network equipment for the PSAPs, software, database, addressing, initial training, and other capital and start-up expenditures, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider. Recurring costs include, but are not limited to, network access fees and other telephone charges, software, equipment, and database management, and maintenance, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider. Recurring costs cannot be used for personnel. Personnel costs are paid from county or city funds, depending on the PSAP.

Assumptions

Wireless

1. The estimates are based on six calendar quarters of data beginning with the third Calendar Quarter report 2010 (July – September 2010) through the fourth Calendar Quarter report 2011 (October – December 2011).
2. The average amount of revenue generated per calendar quarter is \$4.3 million.
3. The estimated number of cell phone subscribers in Iowa is 2.2 million.
4. The average amount generated under the current formula at 21.0% of the total is \$903,000 per quarter. Under the Bill, this amount would no longer be allocated for wireless carrier cost recovery.
5. The average amount distributed among the 117 PSAPs under the current formula is approximately \$1.1 million per calendar quarter. Under the Bill, this amount would increase from 25.0% to 46.0% resulting in an additional \$903,000 or \$2.0 million per calendar quarter being allocated to the 117 PSAPs through the formula. The attachment shows the estimated amount per month each PSAP will receive based on the most recent quarterly report. This assumes that the amount of revenue coming in per quarter remains at the estimated rates.
6. For the fourth calendar quarter, there were 248,321 calls made to PSAPs, with approximately 75.0% wireless calls and 25.0% wireline calls.
7. Industry data suggests the following prepaid subscriber average purchase/usage activity:
 - 60.0% purchase a prepaid card on a monthly basis.
 - 30.0% purchase a prepaid card every two months.
 - 5.0% purchase a prepaid card every three months.
 - 5.0% purchase a prepaid card every week.
8. The minimum amount of service established in the Bill is 10 minutes or less or five dollars or less.
9. The Bill changes the collection of the surcharge for wireless prepaid phones from the wireless service providers collecting a \$0.65 surcharge monthly to the retailers collecting a \$0.33 surcharge at the time of sale. Under current law, wireless providers are permitted to retain 1.0% of the surcharge (one-half cent (.005) per month or one and one-half cents (.015) per quarter). Under the Bill, retailers are permitted to deduct and retain 3.0% of prepaid wireless E911 surcharges (approximately one cent (.0099)).
10. Retailers are required to remit the surcharge to the Department of Revenue in the same manner as sales and use tax under Chapter 423. Within 30 days of receipt, the Department is required to remit all prepaid wireless 911 surcharges to the Treasurer of State for deposit in the E911 emergency communications fund. Prior to remitting the money to the Treasurer's office, the Department of Revenue is permitted to retain an amount not to exceed 2.0% of collected surcharges to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 surcharges. If one cent is retained by the retailers and if the Department retains the maximum 2.0% allowed under the Bill, of the 32 cents remaining, the Department will retain approximately 2/3 of a penny or 0.64 cents per retail transaction.

11. The Department will be required to account for the receipt of surcharge returns and payments and the distribution of the surcharge. The start-up process for this program will require changes to the Department's "e-file & pay" system that is used by retailers to file sale tax returns and remit sales taxes. The Department will also be required to make changes to the Integrated Revenue Information System to register retailers, process returns, and balance remittances with returns will also be required and has the potential to require staff to commit significant development time; however, an estimate of those costs is not currently available. The Bill does not specifically address whether the Department is to institute an enforcement program of audit and collections.
12. According to the FCC Report, in the United States, 19.0% of wireless subscribers are prepaid. Of the 2.2 million cell phone subscribers in Iowa, approximately 418,000 may be from prepaid wireless phones; however, figures for prepaid wireless phones are not tracked separately by the wireless carriers and therefore the number of wireless prepaid phones in Iowa is unknown.

Wireline

1. The surcharge appears on the ballot in November and is approved for a 24-month period.
2. The wireline provider has 60 days to implement the surcharge once notified of the approval.
3. Over a four-year period, the Shelby County wireline surcharge generated an average of \$99,000 at \$1.00 and over a two-year period the surcharge generated an average of \$126,000 at \$2.50, an increase of \$27,000.
4. The population of Shelby County in 2010 was 12,167 and 13,173 in 2000, a decrease of 1,006.
5. Over a three-year period, the Mitchell County wireline surcharge generated an average of \$62,000 at \$1.00 and over a three-year period, the surcharge generated an average of \$86,000 at \$2.50, an increase of \$24,000.
6. The population for Mitchell County was 10,776 in 2010 and 10,874 in 2000, a decrease of 98.

Fiscal Impact

Based on current revenue estimates, the elimination of wireless carrier cost recovery and the increase in the PSAP percentage from 25.0% to 46.0% will result in an additional \$929,000 per quarter or an estimated \$3.7 million in additional revenue to the PSAPs per year.

Although the moratorium on a new wireline surcharge above \$1.00 will be in effect until May 2013 (depending on the results of the task force study), the increase must be approved by voters and will be on the ballot the following election cycle. The fiscal impact of repealing the voter-approved alternative wireline surcharge of up to \$2.50 per month for a 24-month period will reduce revenue for a small county by approximately \$25,000 per year.

The number of wireless prepaid phones is unknown but may make up to 19.0% of the total revenue received per quarter. Changing the billing from wireless service providers remitting \$0.65 on a monthly basis to the retailer collecting \$0.33 at the time of sale is unknown at this time (experience varies nationally).

The Department of Revenue estimates the need for significant modifications to their system and/or forms to collect the surcharge revenue from the retailers. The following chart shows the summary of the estimated fiscal impact.

Purpose	Estimated Amount	Funding Source
Modification of the e-file and pay system	\$ 43,200	General Fund
Changes to the Integrated Revenue Information System	\$ 21,990	General Fund
General Fund Total	<u>\$ 65,190</u>	
0.5 FTE position for an Administrative Assistant 2	<u>\$ 43,500</u>	Surcharge
* Does not include any cost estimates for a follow-up audit, enforcement, or collection activities.		

Sources

Homeland Security and Emergency Management Division
Department of Revenue

/s/ Holly M. Lyons

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The fiscal note for this bill was prepared pursuant to **Joint Rule 17**. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
